IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10626 OF 2004

Harish Krishnaji Deshpande ...
Petitioner

Versus

Central Bank of India ...
Respondent

Dr. Ashok Dhamija for the Petitioner

Mr. P.K. Rele, Senior Counsel, with Mr. Hitel Thakar and
Mr. P.N. Ganwani instructed by M/s. Shah Lad & Co. for the
Respondent.

CORAM: **DALVEER BHANDARI, C.J., &**
S.A. BOBDE, J.
DATE: FEBRUARY 24, 2005.

P.C.

1. The petitioner was working as the Assistant General Manager in the

respondent-bank at its Pune Camp Branch. He was placed under suspension on 18th September, 2000.

2. According to the respondent-bank, the petitioner was guilty of committing grave financial irregularities. A departmental inquiry was held against him. The Inquiry Officer framed charges against the petitioner on 31st March, 2001. The gist of those charges is recapitulated as under:-

(1) Indiscriminate and reckless sanction of credit limits

(2) Abuse of official power and position in resorting to back-door and unauthorised release of funds to a sick and borrowal unit

(3) Grossly exceeding delegated lending power in a clandestine manner

(4) Unjustified, unauthorised random grant of excess drawing

(5) Total disregard, apathy and least concern to Central Office / Zonal Office instructions leading to an act of rank insubordination

(6) No record of either pre-sanction or post-sanction inspection

(7) Wilful suppression of facts and non-reporting of irregular sanctions

(8) Estimated financial loss to the bank to the tune of Rs. 28.91 crores.

3. The Commissioner for Departmental Inquiries was the Inquiry Officer.

4. The findings of the Inquiry Officer were forwarded to the petitioner. He submitted comments recording his replies, and requested the Disciplinary Authority to condone the alleged irregularities and reinstate him in active service of the bank at the earliest.

5. After carefully examining all the documents and hearing the petitioner, the Appellate Authority came to the following findings:-

> "Perusal of the record of this case placed before me clearly indicates that the Appellant (petitioner herein) sanctioned the credit facilities in the borrowal accounts referred to in the charge-sheet without processing the proposals on scientific lines and without adhering to prudent lending norms of the Bank. The Appellant is expected to be absolutely careful and prudent while dealing with the public money, but, unfortunately he did not show any semblance of the same in

the context. He accepted unrealistic and unachievable projections without any reasonable enquiries – which resulted in jeopardizing Bank's interest. It is also a matter of record that he did not ensure conducting of necessary and meaningful pre and post-sanction inspection in the subject case. Consequently, the *bonafides* of the borrowers and the veracity of the data furnished by them remained unverified. The serious irregularities that were proved in the credit portfolio handled by him occurred within a short span of about one year and that too repeatedly. The Appellant is a senior and an experienced Banker. I observe from the record of the case that at every stage in the context of the subject accounts, where the Appellant was under the obligation to safeguard Bank's interest, he failed to do so as clearly analysed by the IA (Inquiring Authority) and appreciated by the DA (Disciplinary Authority). The evidence on record manifests that it is not a single act but a series of his acts in a number of accounts that resulted in jeopardising the interest of the Bank to a substantial extent.

The Appellant completely ignored the spirit of lending powers vested in him. He repeatedly ignored the aspect that whenever a lending decision was taken by him, he should ensure that the Bank's interest was not diluted or jeopardized in any form at any stage. It is overwhelmingly coming out in the case that the seriousness, dedication, care and integrity with which the lending decisions involving crores of rupees were to be taken, were absent in every action of his. The spirit of different layers in the administration has been deliberately misinterpreted by him and he has tried to pass on the blame to his subordinates. The financial indiscipline which the Appellant exhibited in the case in question, according to me, is uncondonable.

In view of the above mentioned observations, the gravity of the irregularities committed by the Appellant, the evidence on record and the stakes involved in the case, I do not find it a fit case for reducing either the charge-wise penalties or the

consolidated penalty imposed by the DA concerned on the Appellant."

6. The petitioner, aggrieved by the order of the Appellate Authority rejecting the appeal of the petitioner against the order of dismissal,

has approached this Court, and prayed that the order of dismissal be set aside.

7. The petitioner's main grievance articulated before us is that the bank has not examined any witness in this case to prove its case. The entire case of the bank is based on 109 documents. It is alleged that the documents have not been proved by the bank.

8. The other objection is that the petitioner has not been given any opportunity of cross-examination, which is a gross violation of the principles of natural justice.

9. In reply to the petition, affidavit has been filed on behalf of the management of the respondent-bank in which it is clearly stated in paragraph 6 that the bank filed 109 documents during the inquiry, and copies of all those documents have been provided to the petitioner from time to time, as per the directions of the Inquiry Officer well in advance. The petitioner has, at no stage, taken any objection to any of those documents even when they were exhibited by the

Inquiry Officer. The bank, to demonstrate the irregularities committed by the petitioner, has relied upon the original 109 documents of the bank. The bank has not adduced any oral evidence. Therefore, there is no question of granting any opportunity to the petitioner to cross-examine the witness.

10. In the reply, it is mentioned that the bank produced 109 documents and the petitioner filed 61 documents before the inquiry Officer on 22nd May, 2003 and 23rd May, 2003, respectively. Before filing those documents, both the parties served copies of all documents on each

other well in advance for their perusal and objections, if any. Since the parties did not take any objection regarding the documents, the Inquiry Officer marked the documents on both sides. The petitioner did not raise any objection regarding any of the 109 documents filed in the inquiry on behalf of the respondent-bank. It is the admitted position of law that documents admitted need not be proved. There is no rejoinder to this affidavit. Therefore, in view of those documents, we find no merit in the submission of the petitioner regarding the admissibility of the documents.

11. In the reply, it is mentioned that the petitioner sanctioned total advances of Rs.53.25 crores in 29 accounts in utter disregard of all the lending norms stipulated by the Reserve Bank of India and the Central Office of the respondent-bank. It is also mentioned in the reply that out of 29 accounts, 15 accounts became Non Performing Assets, and the bank was forced to file recovery suits before the Debts Recovery Tribunal for recovery of Rs.44.71 crores with future interest.

12.After filing suits and effective follow-up for recovery, the bank could make recovery of a meager amount of Rs.3.24 crores out of the above accounts. It is also mentioned that the bank has suffered huge financial loss due to deliberate and wilful irregularities committed by the bank. The Central Bureau of Investigation has filed two criminal cases against the petitioner on various charges in respect of the above advances; and criminal cases are pending at the initial stage. It is also mentioned that the petitioner committed various irregularities in sanctioning credit facilities while working as Regional Manager, Nagpur, and Chief Manager at Guwahati Branch in Assam. The Disciplinary Authority took a lenient view at that time, and gave only censure and warning vide orders dated 14th December, 1998 and 28th May, 1998. The petitioner was specifically warned to be more careful in future.

13.It is also mentioned that the petitioner has no habit of mending his ways and correcting himself. It is also mentioned that the petitioner played havoc with public money, and caused extensive financial loss

to the bank.

14. In these circumstances, the bank was left with no other option but to give punishment to the petitioner in accordance with law.

15. In these circumstances, the respondent-bank was justified in giving the punishment of removal from service to the petitioner, after giving full opportunity to defend to the petitioner at every stage. No prejudice has been caused to the petitioner in any manner.

16. In the facts and circumstances of the case, in our considered opinion, no interference with the impugned order is called for in our

extra-ordinary jurisdiction under Article 226 of the Constitution. This Writ Petition, being devoid of any merit, is accordingly dismissed.

CHIEF JUSTICE

S.A. BOBDE, J.